



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

INJURY 1 TREATMENT CENTER

**Respondent Name**

INDEMNITY INSURANCE COMPANY

**MFDR Tracking Number**

M4-17-1196-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

January 3, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The insurance company has not paid the claim stating the treatment needed to be preauthorized. Per rule 134.600 the treatment does not require preauthorization."

**Amount in Dispute:** \$1,060.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "It is Respondent's position that DWC Rule 134.600 (p) (7) requires all psychological services to be preauthorized. The treatment in dispute in this matter was a psychological interview, billed as CPT code 90791, in which Requestor did not first obtain preauthorization... Therefore, reimbursement is not owed due to failure of the Requestor, and/or Claimant's treating doctor, to obtain preauthorization for the services."

**Response Submitted by:** Downs Stanford, P.C.

### SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
January 28, 2016	90791 x 5 units	\$1,060.00	\$206.44

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
- 28 Texas Administrative Code §134.203 sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 16-Payment adjusted because the submitted authorization number is missing, invalid, or does not apply to the billed services or provider
  - 283- This procedure requires prior authorization and none was identified

## Issues

1. Does CPT Code 90791 require preauthorization, pursuant to 28 Texas Administrative Code §134.600 (p) (7)?
2. What is the definition of CPT Code 90791 and is it a timed code?
3. Is the requestor entitled to additional reimbursement?

## Findings

1. The disputed service, CPT Code 90791 is defined as *"Psychiatric diagnostic evaluation (no medical services) completed by a non-physician."* The insurance carrier denied/reduced the disputed services with denial/reduction code(s) "16- Payment adjusted because the submitted authorization number is missing, invalid, or does not apply to the billed services or provider" and "283- This procedure requires prior authorization and none was identified."

28 Texas Administrative Code §134.600 states in pertinent part, "(p) Non-emergency health care requiring preauthorization includes... (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized or division exempted return-to-work rehabilitation program."

Review of the insurance carrier's documentation does not contain sufficient information to support that the disputed service is a repeat (emphasis added) interview. As a result, the insurance carrier's position is not supported.

The Division finds that the disputed service does not require preauthorization pursuant to 28 Texas Administrative Code §134.600 (p) (7). As a result, the disputed services are reviewed per 28 Texas Administrative Code §134.203.

2. The requestor seeks reimbursement for CPT code(s) 90791 x 5 units rendered on January 28, 2016.

28 Texas Administrative Code §134.203 states in pertinent part, "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules..."

CPT Code 90791 is defined as *"Psychiatric diagnostic evaluation (no medical services) completed by a non-physician."*

The requestor billed 5 units of CPT Code 90791. Per CMS this CPT Code is not a timed procedure code. As a result, only one unit of CPT Code 90791 is allowed.

3. 28 Texas Administrative Code §134.203 states in pertinent part, "(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year..."

28 Texas Administrative Code §134.203 states in pertinent part, "(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of §134.1 of this title."

The division finds that 28 Texas Administrative Code §134.203(h) (1) applies to the reimbursement of CPT Code 90791. The MAR reimbursement for CPT Code 90791 is \$206.44. The Requestor seeks \$1,060.00, the lesser of is \$206.44, therefore this amount is recommended.

## Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$206.44.

## ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$206.44 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	_____ January 27, 2017 Date
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## YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**